IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CUSTOMS APPEAL NO.40 OF 2007

The Commissioner of Customs (Preventive)..Appellant.

V/s.

Mahendra Singh Purohit ..Respondent.

Mr.P.S.Jetly with H.V.Mehta and S.D.Bhosale i/b. H.P. Chaturdevi for appellant.

Mr.Anand Sachwani i/b. Advani Sachvani for respondent.

CORAM : F.I.REBELLO AND
J.P.DEVADHAR, JJ.

DATED : 24TH AUGUST, 2007.

P.C. :-

1. The revenue is aggrieved by the order of CESTAT whereby the confiscation of electronic consumer goods worth Rs.6,65,000/- with a option to redeem on payment of fine of Rs.1,50,000/- and personal penalty of Rs.60,000/- has been set aside.

2. The reason for setting aside the confiscation is that the goods in question are non notified goods and the revenue failed to discharge the burden that the said goods are smuggled illegally into the country. The Tribunal has further held that even if the duty paying documents produced by the respondent did not tally with the description of the goods, still

the onus was on the revenue to discharge the burden by producing positive evidence. The Tribunal has held that in the absence of such evidence, the confiscation order cannot be sustained.

3. In our opinion, the finding recorded by the Tribunal are findings of fact and no substantial question of law arises out of the said order passed by the Tribunal.

4. Accordingly, the appeal is dismissed with no order as to costs.

(F.I.REBELL0, J.)

(J.P.DEVADHAR, J.)